

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

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In the Matter of

Truth-in-Billing  
 and  
 Billing Format

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FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

CC Docket No. 98-170

**Petition for Temporary, Limited Waiver**

Delta Telephone Company, Inc. ("Delta") and Franklin Telephone Company, Inc. ("Franklin")(collectively the "Petitioners"),<sup>1</sup> by counsel, hereby seek temporary, limited waiver of the Truth-in-Billing ("TIB") requirements established by the Federal Communications Commission ("Commission" or "FCC") in its First Report and Order and Further Notice of Proposed Rulemaking in the above-captioned matter.<sup>2</sup> Specifically, the Petitioners seek temporary waiver of the requirements of Section 64.2401(b) regarding description of charges (the "TIB Description Requirement").<sup>3</sup> The Petitioners seek this waiver until April 1, 2000.

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<sup>1</sup> Delta and Franklin are affiliates and are owned by Telapex, Inc. Attachment A contains the declaration of Wade Creekmore, Jr., Vice President of Delta and who is also President of Franklin.

<sup>2</sup> In the Matter of Truth-in-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 99-72, released May 11, 1999, 64 Fed. Reg. 34488 (June 25, 1999)("TIB Order"); Errata, CC Docket No. 98-170, DA 99-2092, released October 6, 1999.

<sup>3</sup> 47 C.F.R. § 64.2401(b) states that:

Charges contained on telephone bills must be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered. The description must be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged.

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The Petitioners are members of the United States Telecom Association ("USTA"). As such, they recognize that a pending Petition filed by USTA seeks similar relief for USTA member companies.<sup>4</sup> Moreover, the Petitioners recognize that a pending Joint Petition filed by the National Exchange Carrier Association, Inc., the National Telephone Cooperative Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, Inc. (collectively the "Associations") also seeks similar relief for their member companies. Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, the Petitioners request a waiver of the TIB Description Requirement until April 1, 2000.

Until the waiver requested expires, each of the Petitioners will continue to work diligently with their billing system vendor on the software billing system changes necessary to comply with the TIB Description Requirement. Moreover, even after the waiver expires, the customer representatives of each of the Petitioners will continue to provide assistance to customers with questions concerning charges for particular services. Accordingly, the Petitioners respectfully submit that these actions will ensure that the underlying public interest objectives of the TIB Description Requirement will be advanced during the time that the requested waiver is in effect.

## **I. Background**

Delta provides exchange and exchange access services to approximately 4,550 lines in Mississippi. Franklin provides exchange and exchange access services to approximately 8,450 lines in Mississippi. Each of the Petitioners is a rural telephone company under the

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<sup>4</sup> See Public Notice, DA 99-1616, released August 13, 1999.

Communications Act of 1934, as amended. The Petitioners use CHR Solutions ("CHR") as their billing vendor. In August, 1999, the Petitioners began discussions with CHR to address the various TIB requirements in order to ascertain what billing system changes would be required to ensure the Petitioners' compliance. Accordingly, the Petitioners included these activities as one part of their Year 2000 issue checklist associated with all of their computer-based systems. Although TIB compliance efforts were undertaken, the Petitioners will not be able to comply with the TIB Description Requirement by November 12, 1999.<sup>5</sup>

The need for the temporary, limited waiver of the TIB Description Requirement arises based on the capability of the Petitioners' billing system to disaggregate the charges and the services that currently are included within the bill's "Local Service and Equipment Charge." Currently, charges for these services (e.g., custom calling features) are aggregated on the bill, and no description of these services is provided. CHR has indicated that the necessary billing system software to comply with this rule will not be available until February 15, 2000. Moreover, once the software is fully developed to comply with this TIB rule, the bills will then need to be tested by the Petitioners in an effort to ensure compliance with the FCC's standard that service descriptions must contain "brief, clear, non-misleading, plain language."<sup>6</sup> Even in the absence of this additional bill detail, however, the Petitioners have each had minimal customer complaints regarding their charges for other local services.

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<sup>5</sup> See 64 Fed. Reg. 55163 (Oct. 12, 1999); see also Public Notice, DA 99-2030 (Sept. 30, 1999) and Public Notice, DA 99-1789 (Sept. 2, 1999).

<sup>6</sup> 47 C.F.R. § 64.2401(b).

Based on the most current information available to the Petitioners, they will not be able to complete the necessary software modifications and successfully test such software by November 12, 1999. The Petitioners do, however, anticipate that they can accomplish these tasks by April 1, 2000.

**II. Good Cause Exists for and the Public Interest will be Served by a Grant of this Limited Waiver**

Based on these facts and circumstances, the Petitioners respectfully submit that good cause exists for a grant of this limited waiver, and that the public interest will be served by such action. As demonstrated herein, Petitioners are making diligent efforts to comply with the TIB Description Requirement effective November 12, 1999. However, the Petitioners' compliance with this TIB rule is not feasible by this date in light of the anticipated February 15, 2000 delivery date to the Petitioners of the necessary billing system software upgrades and the subsequent need for successful testing of these upgrades. Moreover, the Commission's November 12, 1999 implementation date for the TIB Description Requirement is further complicated by efforts to address Year 2000 issues.<sup>7</sup> The Petitioners anticipate that compliance with the TIB Description Requirement should be possible by April 1, 2000. Accordingly, for the reasons stated, good cause exists for this waiver.<sup>8</sup>

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<sup>7</sup> Accord USTA Petition at 4, 9, and 11.

<sup>8</sup> "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co.,

The Petitioners also respectfully submit that the public interest would be served by a grant of this request. First, the Commission has recognized the need to balance the implementation of new regulatory directives which affect computerized systems with on-going Year 2000 activities.<sup>9</sup> The software changes required by Petitioners' billing system clearly fall into this Commission-defined category. The Commission's concerns regarding utilization of its Year 2000 Policy Statement to "'forestall' or 'roll back' disfavored regulations, or use this policy for purposes of competitive advantage"<sup>10</sup> are not applicable here. The Petitioners are working toward TIB compliance and seek only a limited extension of time that is otherwise consistent with the underlying objectives which justified the Commission-prescribed compliance date of certain other TIB rules. Accordingly, there is no basis to conclude that the Petitioners are attempting to "forestall" or "roll back" disfavored regulations. In addition, there is no "competitive advantage" associated with this request. A grant of this waiver does not affect a competitor of the Petitioners; rather it allows an interim measure to be implemented that allows continuation of existing billing arrangements in a manner consistent with the status of the overall TIB compliance efforts by the Petitioners.

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L.P. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>9</sup> See In the Matter of Minimizing Regulatory and Information Technology Requirements That Could Adversely Affect Progress Fixing the Year 2000 Date Conversion Problem, Year 2000 Network Stabilization Policy Statement, FCC 99-272, released October 4, 1999 ("Year 2000 Policy Statement") at para. 15.

<sup>10</sup> Id. at para. 16.

Second, the Commission has already determined that the April 1, 2000 date is appropriate for implementing other TIB rules.<sup>11</sup> Accordingly, the ability of the Petitioners to continue to work toward the April 1, 2000 implementation date for all TIB rules would ensure efficiency and continuity in the enhancements to their billing system capability without incurring unnecessary expenditures or jeopardizing Year 2000 compliance issues.

Finally, the underlying goal of the TIB Description Requirement -- the ability of a customer to identify charges -- would not be frustrated by a grant of the requested waiver. As is done today, even after the requested waiver expires, the Petitioners will continue to provide customer service assistance regarding billing inquiries and questions. The Petitioners will continue to provide their local telephone number on the bill in order to allow customers to contact them directly. Accordingly, the goal of the TIB Description Requirement will be advanced. Waiver of the TIB Description Requirement as requested herein will merely maintain the status quo until such time as the billing system modifications are made and successfully tested, while effecting the goals of these requirements in an alternative manner.

Even assuming that harm to the public interest is present, that harm does not outweigh the public interest benefits arising from a grant of this request. As indicated, the concerns expressed by the Petitioners' consumers regarding the Petitioners' respective "Local Service and Equipment Charge" have been minimal. Moreover, each of the Petitioners anticipate that this experience will not change during the time that the requested waiver is in place.

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<sup>11</sup> See n. 5, supra.

### **III. Conclusion**


Because Delta and Franklin are technically incapable of complying with the TIB Description Requirement by November 12, 1999, a grant of this request until April 1, 2000 will ensure that the Petitioners can implement and successfully test the billing system software upgrades required to implement this TIB requirement in an efficient manner, while avoiding unnecessary expense or raising additional Year 2000 compliance issues. At the same time, the consumer goals of these TIB rules will not be frustrated by a grant of this request. Rather, such goals will be furthered by the Petitioners as they continue to provide customer assistance and responsiveness when questions are received regarding the charges for particular services.

Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, Delta and Franklin request a waiver of the requirements of 47 C.F.R. §§ 64.2401(b) until April 1, 2000.

Respectfully submitted,

**Delta Telephone Company**  
**Franklin Telephone Company**

By



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November 3, 1999

**Declaration of Wade Creekmore, Jr.  
Vice President of Delta Telephone Company and  
President of Franklin Telephone Company**

I, Wade Creekmore, Jr., Vice President of Delta Telephone Company and President of Franklin Telephone Company (the "Companies"), do hereby declare under penalties of perjury that I have read the foregoing "Petition for Temporary, Limited Waiver" and the information contained therein regarding the Companies is true and accurate to the best of my knowledge, information, and belief.

Date 11-02-99



Wade Creekmore, Jr.

Vice President, Delta Telephone Company  
President, Franklin Telephone Company



**CERTIFICATE OF SERVICE**

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Petition for Temporary, Limited Waiver" of Delta Telephone Company, Inc. and Franklin Telephone Company, Inc. was served on this 3rd day of November, 1999 by hand delivery to the following parties:



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